The Odisha Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

No. 2400 CUTTACK, FRIDAY, AUGUST 1, 2025/SRAVANA 10, 1947

LABOUR & E.S.I. DEPARTMENT

NOTIFICATION

The 23rd July 2025

S.R.O. No. 568/2025—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 25th June 2025 passed in I.D. Case No. 07 of 2024 [under Section 2-A (2)] by the Presiding Officer, Industrial Tribunal, Bhubaneswar on the industrial dispute between the managements of M/s Surendra Power Tech. Pvt. Ltd., New Industrial Estate, Phase-III, Jagatpur, Cuttack-754021 and Shri Shibanath Dhara, S/o Nitai Chandra Dhara, At Sridharnagar, P.O. Patharpratima, Dist. South 24 Pragana, West Bengal-743371 is hereby publiched as in the schedule below :—

SCHEDULE

BEFORE THE INDUSTRIAL TRIBUNAL, BHUBANESWAR

INDUSTRIAL DISPUTE CASE NO. 07 of 2024[U/s.2-A(2) of ID Act-1947]

Dated the 25th June 2025

Present :

Shri Benudhar Patra, LL.M.,
Presiding Officer,
Industrial Tribunal,
Bhubaneswar.

Between :

The Management of
M/s Surendra Power Tech. Pvt. Ltd.,
New Industrial Estate, Phase-III,
Jagatpur, Cuttack-754021. .. First Party—Management

And

Shri Shibanath Dhara,
S/o Nitai Chandra Dhara,
At Sridharnagar, P.O. Patharpratima,
Dist. South 24 Pragana,
West Bengal-743371. .. Second Party—Workman

Appearances :

Shri Umesh Ch. Mishra, Advocate.	: For the First Party
Shri Manoranjan Samantray, A/R.	: For the Second Party

AWARD

The instant proceeding is one filed under Section 2-A (2) of the Industrial Disputes Act, 1947 (for short 'the Act') by the above named second party challenging his illegal termination from service by the first party and claiming for compensation in lieu of his reinstatement and back wages. It is mentioned in the application that initially he lodged a complaint on the 8th April 2024 relating to his illegal termination with effect from the 1st April 2024 by the first party before the labour machinery, but as there could not be any settlement of the dispute within the time stipulated under the Act, he approached this forum by resorting to the provisions of Section 2-A (2) of the Act.

2. The short facts, narrated in the claim statement leading to filing of the present application by the second party, are that he was engaged under the first party as a machine operator high skill workman and worked as such continuously from the 1st October 2016 to the 31st March 2024, but without any reason and rhyme when the management informed him about termination of his employment with effect from the 1st April 2024 and consequently paid him only the gratuity amount and did not care to comply with the statutory mandates and instead told him that the amount paid was towards the full and final settlement of all his dues. The second party approached the concerned authority and raised a dispute in that regard but the same having not been resolved within the stipulated period, he has approached the present forum seeking appropriate relief. It is stated that at the time of termination of his service the second party was receiving a monthly wage of Rs. 18,800. According to the second party, his termination is in gross violation of the provisions of the Act, inasmuch as, the first party has failed to pay him compensation at the time of his termination to which he was entitled as per the provisions of law. In view of his rendering continuous service under the first party for a period of more than seven years, the second party has claimed for a lump sum compensation in lieu of his reinstatement and back wages for such illegal action of the first party.

3. Pursuant to the claim advanced by the second party, the first party entered contest in the dispute and filed its written statement stating, *inter alia*, that the application, as laid, is not maintainable; the same being preferred with a view to grab unlawful gain from the first party. The specific assertion of the management is that owing to constant loss suffered by the management, a decision was taken to close the factory with effect from the 1st April 2024 and accordingly it had intimated in writing indicating the reason of such closure to the second party as well as other workers engaged in the establishment vide letter dated the 5th January 2024 and so also paid them not only their wages for three months but also Gratuity; bonus; leave with wages and retrenchment benefits and consequently a declaration was furnished by the second party and others regarding receipt of full and final payment. In the background as above, it is stated by the management that the claim advanced in the application is only with a view to harass the management and accordingly prays for rejection of the same.

4. In his rejoinder the second party reiterating the stand taken in the claim statement has further averred that though the management had served prior notice intending closure of its factory, yet his rendering service during the notice period, the wages paid during the period cannot be said to be the compensation as required under Section 25-F of the Act. Objecting to the stand taken by the

management with regard to payment of full and final settlement of his dues, it is stated by the second party in the rejoinder that by obtaining his signature in a forceful manner the management has managed to reflect the same to be his full and final dues, although the amount paid was towards gratuity only. In the circumstance, reiterating his prayer the second party has claimed for payment of compensation in lieu of reinstatement and back wages; owing to his illegal termination of service by the management.

4. Basing on the pleadings of the parties, the following issues have been framed :—

ISSUES

(i) Whether the case is maintainable ?

(ii) Whether the action of the management of Surendra Power Pvt. Ltd., New Industrial Estate, Phase-lll, Jagatpur, Cuttack in terminating the services of Sibanath Dhara with effect from the 1st April 2024 is legal and/ or justified ?

(iii) If not, what relief Shri Dhara is entitled to ?

5. In order the substantiate their respctive stand, while the second party examined himself as W.W.1 and relied on documents which have been marked as Exts. 1 to 5, the management examined one Shri Jyoti Shankar Sahoo, its Manager as M.W.1 and placed reliance on documents which have been marked as Exts. A to H.

FINDINGS

6. *Issue No. (i)*—As it reveals from the evidence of W.W.1 and the document relied on his behalf marked as Ext. 1 (not being objected to by the management) that soon after his termination of employment with effect from the 1st April 2024 he has raised a grievance relating to his illegal termination before the District Labour Officer, Cuttack on the 8th April 2024 but as the same was not resolved by the labour machinery within the stipulated period of 45 days, he approached this forum on the 3rd June 2024 redressing his grievance. Besides, it is found that the application under Section 2-A(2) of the Act having been preferred by the second party within due time is in order. On the face of the above, the case is held to be maintainable in this forum.

7. *Issue Nos. (ii) &(iii)*—Both the issues are taken up for consideration together for the sake of convenience and brevity.

There is no dispute over the fact that the second party was under the employment of the management for the period from the 1st October 2016 to the 31st March 2024. A refernce in this context may be made to Exts. 4, the EPF statement of the second party for the peroid from November 2016 to March 2024. Similarly, as it reveals from the notice Exts. 5, there seems no dispute with regard to the termination of service of second party with effect from the 1st April 2024 by the management. In view of his rendering continuous service for a period of more than 240 days preceding the date of such termination and non compliance of the provisions of Section 25-F of the Act while the second party has claimed for appropriate compensation for such termination, the management has taken a stand that pursuant to the notice Ext. A /Exts. 4, the second party having received his full and final dues including the claimed compensation, he is not entitled to the relief prayed for in the present application.

8. To resolve the controversy between the parties and to arrive at a conclusion on this point, therefore, it is necessary to have a look to the provisions of Section 25-FFA; Section 25-FFF & Section 25-F of the Act and so also the evidence available on record.

Section 25-FFA of the Act provides that —

"25FFA. [Sixty day's notice to be given of intention to close down any undertaking]

(1) An employer who intends to close down an undertaking shall serve, at least sixty days before the date on which the intended closure is to become effective, a notice, in the prescribed manner, on the appropriate Government stating clearly the reasons for the intended closure of the undertaking :

Provided that nothing in this section shall apply to-

(a) an undertaking in which-

(i) less than fifty workmen are employed, or

(ii) less than fifty workmen were employed on an average per working day in the preceding twelve months.

(b) an undertaking set up for the construction of buildings, bridges, roads, canals, dams or for other construction work or project.

(2) Notwithstanding anything contained in sub-section (1), the appropriate Government may, if it is satisified that owing to such exceptional circumstances as accident in the undertaking or death of the employer or the like it is necessary so to do, by order, direct that provisions of sub-section (1) shall not apply in relation to such undertaking for such period as may be specified in the order.

Similarly, there is a provision under Section 25-FFF of the Act with regard to the conditions to be complied by the management in case of closing down of an undertaking, which reads as follows :—

"25FFF. Compensation to workmen in case of closing down of undertakings.
(1)Where an undertaking is closed down for any reason whatsoever, every workman who has been in continuous service for not less than one year in that undertaking immediately before such closure shall, subject to the provisions of sub-section (2), be entitled to notice and compensation in accordance with the provisions of Section 25-F, as if the workman had been retrenched:
Provided that where the undertaking is closed down on account of unavoidable circumstances bayond the control of the employer, the compensation to be paid to the workman under Clause (b) of Section 25-F, shall not exceed his average pay for three months. xx xx."

As a follow up action of Section 25-FFF, Section 25-F of the Act deals with the conditions which a management is required to follow in case of retrenchment of a workman. For better appreciation, the same is reproduced below :—

"25F. Conditions precedent to retrenchment of workmen :
No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until-

(a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notic:

(b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen day's average pay [for every completed year of continuous service] or any part thereof in excess of six months; and

(c) notice in the prescribed manner is served on the appropriate Government [or such authority as may be specified by the appropriate Government by notification in the Official Gazette].

9. On a combined reading of the provisions of the Act, as quoted *supra* coupled with the document Ext. F, the combined Muster Roll-*cum*-Register of Wages (which has been marked without any objection from the side of the second party), there is reason to believe that at the relevant time there were less than fifty workmen in the establishment of the management and therefore, apropos the provision of Section 25-FFA, there was no necessity at all for intimating the second party and others through notice like Ext. A/Exts. 4 reflecting the intention of the management for closure of its establishment. But at the same time it was incumbent upon the management to comply with the provisions of Section 25-F of the Act treating it to be an act within the purview of Section 25-FFF of the Act, which deals with payment of compensation to the workmen in case of closing down of an undertaking.

10. As it reveals from Ext. G an Amount of Rs. 86,769 has been credited to the account of the second party on the 30th March 2024 and subsequently he was paid Rs. 18,640 towards bonus for the financial year 2023-24 vide Cheque No. 938311 (Ext. H). M.W.1, who is none other than the Manager of the first party has stated in his cross-examination at Para. 22 that gratuity of the second party has been calculation basing on his last wages i.e. Rs. 18,800 and as per his own calculation, as stated by him in cross-examination, Rs. 86,769 represents the amount of gratuity in favour of the second party and not compensation for effecting termination of service of the second party. In view of such admission of M.W.1, it is difficult to presume that the amount shown under Ext. E was towards the full and final payment of the second party including the retrenchment compensation. There being short of evidence from the side of the management that owing to continuous service rendered by the second party the management had complied with the mandatory provisions of Section 25-F of the Act while effecting termination of his service with effect from the 1st April 2024, I am of the view that the action of the management is not in consonance with the provisions of the Act and therefore, the second party is entitled to some compensation for the infirmities indicated above. Accordingly, taking into consideration the fact situation involed in the dispute and the fact that prior to termination the second party had worked under the management for a continuous period of more than seven years, I direct management to pay Rs. 65,800 (Rupees sixty five thousand eight hundred) only towards retrenchment compensation,

computed apropos the provosion of sub-section (b) of Section 25-F of the Act and Rs. 10,000 (Rupees ten thousand) only towards litigation expenses, over and above the amount which has already been paid to the second party vide Ext. G and H within a period of two months of the date of publication of the Award in the Official Gazette.

The application is disposed of accordingly.

Dictated and corrected by me.

BENUDHAR PATRA
25-06-2025
Presiding Officer
Industrial Tribunal, Bhubaneswar.

BENUDHAR PATRA
25-06-2025
Presiding Officer
Industrial Tribunal, Bhubaneswar.

[No. 6670—LESI-IR-ID-0045-2025-LESI.]

By order of the Governor
MADHUMITA NAYAK
Special Secretary to Government

Printed and Published by the Director, Directorate of Printing, Stationery and Publication, Odisha, Cuttack-10
Ex. Gaz. 1610–173+9